

09:32:36 1 evaluate the financial aspects of the transaction, you said "the
32:40 2 client" meant Sports Shinko in general; is that correct?

09:32:45 3 A. Correct. I think that, you know, if you go back to
09:32:53 4 the question and the answer, I think the response basically is
09:33:04 5 saying that with respect to the financial aspects deal, that we
09:33:10 6 did not participate and we weren't asked, whether it was as a
09:33:16 7 director or as attorneys or anything else -- although the
09:33:21 8 response probably should have been with respect to as a
09:33:23 9 director.

09:33:24 10 But from that standpoint, there was no request made to
09:33:31 11 evaluate the terms, the financial terms of the deal. Am I
09:33:36 12 clear?

09:33:36 13 Q. I think some of it is clear. Let me see if I can
09:33:42 14 clarify it a bit. So when you say that you were not requested
09:33:46 15 by the client to evaluate the financial aspects of the
09:33:48 16 transaction, you're referring to yourself and your firm in your
09:33:57 17 capacity as an attorney?

09:33:57 18 A. As an attorney, as a director. Your question was as a
09:34:00 19 director, yeah?

09:34:02 20 Q. Right.

09:34:03 21 A. Taken to investigate. The response was we weren't
09:34:10 22 asked to do it and we didn't do it.

09:34:10 23 Q. But when you say "we," are you referring to your law
09:34:13 24 firm or are you referring to some other group?

09:34:16 25 A. Myself and as a law firm.

09:36:18 1 respect to that transaction, I was no longer a director of the
36:23 2 company. So there was really no reason for me to evaluate the
09:36:27 3 transaction itself. And the transaction itself was not --.

09:36:39 4 We were advised to move forward with respect to
09:36:44 5 that -- and I'm now talking as a law firm -- in January. And
09:36:49 6 that was a time where we were told that there was an interest in
09:36:53 7 doing the transaction. So by that time, I was no longer a
09:36:58 8 director. So there's no reason, you know -- and that's the
09:37:02 9 difficulty in answering, I guess, the interrogatory response --
09:37:06 10 because there is no reason for-as a director to evaluate
09:37:10 11 anything at that point in time.

09:37:13 12 And secondly, with respect to the attorneys, we
09:37:17 13 weren't asked to evaluate the transaction from a financial
37:22 14 standpoint. I hope that clears up in your mind, you know, from
09:37:29 15 a functional standpoint as a director, there was no reason to go
09:37:33 16 ahead and look at the transaction.

09:37:37 17 Q. Let's take the period December 2001 until January 2,
09:37:45 18 2002 when you resigned. In that time period, KG had made an
09:37:57 19 offer of a certain dollar amount for the properties, correct?

09:38:00 20 A. Well, we didn't know that.

09:38:05 21 Q. "We" meaning?

09:38:06 22 A. The people who -- well, no one told me that there was
09:38:10 23 a dollar amount.

09:38:17 24 Q. When did you first learn that KG made a proposal with
9:38:24 25 a dollar amount to purchase the Sports Shinko Hawai'i

09:38:28 1 properties?

09:38:29 2 A. My recollection is that sometime in January, I think.
09:38:38 3 And actually, we didn't know what the terms were. We were
09:38:42 4 told -- we were asked to start working with the attorneys for KG
09:38:49 5 on doing the transaction.

09:38:52 6 At that time, at that time my recollection is that we
09:38:57 7 sent documents to KG's attorney with blank documents and said
09:39:05 8 fill in the terms, we don't know what the deal is, something to
09:39:09 9 that effect. I may not be correct in the exact analysis, but
09:39:15 10 the time sequence is, I think, is probably correct. Sometime
09:39:21 11 early January.

09:39:23 12 And that started the discussions, I guess, if you
09:39:27 13 will, with respect to the transaction. And then when the
09:39:31 14 documents came back, we found out what the economic terms.

09:39:39 15 Q. Just so I'm clear then. The first time that you were
09:39:40 16 aware that KG made a specific dollar amount offer to purchase
09:39:47 17 the Sports Shinko Hawai'i properties was after you resigned as
09:39:53 18 director on January 2, 2002?

09:39:55 19 A. I believe that's correct.

09:39:58 20 Q. Prior to that time, were you aware that KG made a
09:40:03 21 proposal, in general, without knowing the dollar amount?

09:40:09 22 A. Not at that time. Subsequent to that time, in paper
09:40:22 23 documents, I think that I found out that there was something
09:40:26 24 that occurred during that period of time. But during that
09:40:30 25 period of time, I didn't see any proposals.

Q. Just so we're clear. Before you resigned as a director on January 2, 2002, were you aware at any time that KG made a proposal to purchase the Sports Shinko Hawai'i properties, even though you may not have known the specific price?

A. I can't recall. I can't recall because it's clouded by after-the-fact, reading the paper. And I'm almost sure that I know that there were discussions, but actual offers --.

Q. But actual offers?

A. Actual offers, I don't recall knowing about actual offers with prices -- with prices being discussed.

Q. Prior to January 2, 2002, you were aware of discussions between Sports Shinko and KG concerning the potential purchase of the Hawai'i properties; is that correct?

A. Yes.

Q. Tell me, to the best of your knowledge, what discussions you were aware of.

A. Well, I'm going to have to clarify myself here because, you know, as I said, subsequent to that time I have looked at other items which may have indicated what might have occurred during that period of time.

But sometime in early December, someone from KG -- and I believe Mr. Tanigawa -- asked for the representative in Sports Shinko that he might direct an inquiry. So I think I gave him the address, where to be addressed. And I can't recall if I

09:43:07 1 probably gave him the name.

43:14 2 And so I was aware that he had made an inquiry to
09:43:19 3 Sports Shinko. And I was aware that there were discussions,
09:43:27 4 probably ongoing discussions. But as to what those discussions
09:43:35 5 were, I couldn't tell you.

09:43:41 6 Q. When you say that it was probably Mr. Tanigawa who
09:43:46 7 asked for a Sports Shinko rep to whom he might direct an
09:43:53 8 inquiry, the inquiry was about the potential purchase of the
09:43:56 9 Hawai'i properties; is that correct?

09:43:57 10 A. That's correct. An interest in the property is I
09:44:07 11 speculate and say that interest means that they were interested

09:44:10 12 in buying the properties. So to answer your question, I don't
09:44:16 13 know if he said particularly that I wanted to buy the properties
44:21 14 or KG wanted to buy the properties, but there was some interest
09:44:26 15 in the properties. So I can't tell you exactly what the words

09:44:31 16 he used.

09:44:31 17 Q. Those properties, though, are referring to Sports
09:44:34 18 Shinko Hawai'i properties?

09:44:37 19 A. I'm guessing. And I would assume that that's what he
09:44:44 20 was referring to. But he's the best person to ask.

09:44:46 21 Q. When he called you and he said that he wanted a Sports
09:44:51 22 Shinko representative to whom he might direct an inquiry, what
09:44:57 23 did you understand him to be asking?

09:44:59 24 A. What did I understand him to --? I understood him to
9:45:04 25 have an interest -- and this occurs all the time -- interest in

09:45:08 1 the properties that Sports Shinko may have, so.

45:11 2 Q. "The properties that Sports Shinko may have"; that
09:45:13 3 included the Hawai'i properties?

09:45:15 4 A. Yes, correct. Hawai'i properties. When I said the
09:45:20 5 Sports Shinko properties, I'm referring to Hawai'i properties
09:45:23 6 now.

09:45:24 7 Q. Can you recall anything else that either you or
09:45:31 8 Mr. Tanigawa said in that initial inquiry discussion?

09:45:36 9 A. That's a very short discussion.

09:45:39 10 Q. Was it by phone?

09:45:43 11 A. I believe so.

09:45:43 12 Q. Did he initiate the call?

09:45:47 13 A. Yes. Well, my recollection is yes.

:45:52 14 Q. Did he explain how he knew to contact you?

09:45:56 15 A. With respect to why he's contacting me, well, I know
09:46:06 16 Mr. Tanigawa. And I'm guessing that he knew that I represented
09:46:15 17 Sports Shinko as an attorney.

09:46:19 18 Q. Did he say why he was contacting you about the inquiry
09:46:26 19 on behalf of KG?

09:46:30 20 A. Why me, as opposed to anybody else?

09:46:31 21 Q. Yes.

09:46:33 22 A. I don't think he meant -- well, I can't recall.

09:46:38 23 Q. Why do you think the basis for his calling you was
09:46:43 24 that he knew you were the attorney for Sports Shinko?

09:46:47 25 A. One more time.

09:48:55 1 any Mainland-based Sports Shinko companies. The only company
48:59 2 that I represented was the Sports Shinko Hawai'i entities.

09:49:03 3 Q. Did you represent any Sports Shinko entity in Japan?

09:49:07 4 A. No.

09:49:08 5 Q. And by "you," I mean you and/or your firm.

09:49:15 6 A. Well, we're not, we wouldn't be authorized to
09:49:22 7 practice. I mean, we would never give advice with respect to
09:49:25 8 Japanese law.

09:49:30 9 Q. Did you or your firm ever do legal work for the Sports
09:49:34 10 Shinko company in Japan?

09:49:34 11 A. Not to my knowledge.

09:49:38 12 Q. Prior to January 2, 2002, did you do any analysis of
09:50:03 13 offers that came in for the Sports Shinko Hawai'i properties as
:50:09 14 a director of the Hawai'i entities?

09:50:15 15 A. As a director, no.

09:50:16 16 Q. Did you ever review any offers that came in for the
09:50:27 17 Sports Shinko Hawai'i properties as a director prior to
09:50:33 18 January 2, 2002?

09:50:37 19 A. Could you repeat that question?

09:50:54 20 (Record read by the reporter.)

09:50:54 21 A. And you're separating myself out from the attorney as
09:51:04 22 opposed to director?

09:51:07 23 Q. (Nods.)

09:51:07 24 A. No. I looked at it from a capacity. You know, I
3:51:10 25 didn't distinguish either one. But we reviewed offers that came

09:51:19 1 in at the request, solicitation of Sports Shinko saying look at
51:25 2 it.

09:51:25 3 And maybe I should explain that. You know, I was an
09:51:35 4 accommodation, what I consider accommodation director. And as
09:51:40 5 you probably know, there was a law that required resident
09:51:44 6 directors. And once that law was changed, there is no need for
09:51:59 7 me. And that's the reason why I resigned.

09:52:00 8 But during the period of time that I was director,
09:52:06 9 there were no meetings called for directors. And Mr. Kinoshita,
09:52:14 10 Toshio Kinoshita, had absolute control of all the Hawai'i
09:52:20 11 companies. And to the extent that he wanted to remove a
09:52:30 12 director, he would remove a director in 5 seconds, the time it
09:52:34 13 takes for writing a resolution saying he's removed.

09:52:39 14 So there were no meetings. There were no budget
09:52:45 15 discussions. And so it wasn't a, what you would normally
09:52:54 16 consider a board functioning.

09:52:59 17 Q. I'll go back and clarify this. And I don't know if
09:53:05 18 you'll remember this from what you've said because you said a
09:53:10 19 few things here. But initially, you said that you did not
09:53:14 20 distinguish any one. Do you recall saying that?

09:53:19 21 A. Distinguish any one?

09:53:20 22 Q. That was going to be my question. What were you
09:53:23 23 talking about. Why don't we do this? I'm going to have the
09:53:26 24 court reporter read back.

09:53:29 25 MR. WAKUZAWA: Let's go off the record for a minute.

09:57:37 1 A. Oh, yeah. No question from a standpoint of the law
57:40 2 firm.

09:57:43 3 Q. Hold on. I don't mean to cut you off. But I'm just
09:57:45 4 trying to get clarification of your terminology.

09:57:48 5 A. We.

09:57:48 6 Q. We. By "we," you meant yourself and your law firm?

09:57:52 7 A. Well, in the context that I was trying to say was that
09:57:56 8 insofar as any valuation issues, and when you said -- that's why
09:58:02 9 I went back and you said review offers. The context of review
09:58:07 10 offers is a concept where if you're saying whether you're
09:58:14 11 reviewing the offer as to the value, or you're reviewing the
09:58:17 12 offer as to the legal implications of the offer, I'm basically
09:58:20 13 saying we weren't looking at it from a value standpoint.

:58:24 14 Q. Again, "we," means yourself and your law firm?

09:58:27 15 A. Myself and law firm; and in that context, at that
09:58:34 16 point in time, as a director. We relied on experts. As a
09:58:38 17 director, we relied on experts to provide us what might be
09:58:46 18 appropriate values with respect to the properties.

09:58:51 19 Q. Let me go back and try to clarify this whole thing.

09:59:06 20 Prior to January 2, 2002, did you, in your capacity as
09:59:15 21 a director -- not an attorney -- on behalf of any Sports Shinko
09:59:22 22 Hawai'i entity, review any offers to purchase the property from
09:59:30 23 any perspective, be it legal or financial?

09:59:38 24 A. As a director?

09:59:41 25 Q. Yes.

09:59:41 1 A. I don't believe so. Let me clarify that. I don't

00:01 2 believe so. And I guess in that sense, it's a little hard to
10:00:07 3 separate because what we had as attorneys was information from
10:00:10 4 the brokers and as to what they thought might be the value.

10:00:22 5 So evaluating, when you try to distinguish the two,
10:00:27 6 it's, you know, I'm saying basically that as a director and an
10:00:33 7 attorney, we weren't looking at expressing the views that the
10:00:41 8 experts were espousing at that time. And what I'm saying is,
10:00:48 9 you know, they had independent brokers saying this is a good
10:00:52 10 value, this is a good value and so forth.

10:00:55 11 When you say review offers, from that standpoint,
10:01:03 12 there wasn't an independent broker for me to go out and find an
10:01:05 13 appraiser to say, okay, that offer makes sense by economic

:01:09 14 standpoint. I didn't do that as director. So I didn't do any
10:01:14 15 independent investigations, if that's the question you're asking
10:01:18 16 me.

10:01:19 17 Q. You didn't do any independent investigations as to the
10:01:26 18 value --

10:01:26 19 A. Yeah, I didn't.

10:01:27 20 Q. -- of any offers on any Sports Shinko Hawai'i
10:01:35 21 properties as a director; is that correct?

10:01:35 22 A. Repeat the question.

10:01:59 23 (Question read by the reporter.)

10:01:59 24 A. Yes. I didn't find, I didn't ask anybody for any
10:02:08 25 appraisals or any expert's value in the properties.

10:06:44 1 person in a way.

06:48 2 Q. Again, I just don't understand your terminology. You
10:06:52 3 said "they" would say?

10:06:53 4 A. Well, when I'm saying "they," I'm using it
10:06:57 5 collectively. Usually basically communication would come from
10:07:00 6 Satoshi and say okay, we can go and do this.

10:07:06 7 Q. So by the term "they," you're referring to Toshio and
10:07:06 8 Satoshi?

10:07:12 9 A. Maybe the more appropriate thing to say is on a
10:07:19 10 case-to-case basis, it was Satoshi. And I shouldn't say Toshio
10:07:27 11 because I'm not sure whether there was any communications from
10:07:31 12 Toshio.

10:07:34 13 Q. I'm just going follow up a little bit, and then we'll
10:07:35 14 take a break.

10:07:38 15 A. Sure.

10:07:38 16 Q. Is there anything that you did on behalf of the Sports
10:07:46 17 Shinko Hawai'i entities at any time that you served as a
10:07:51 18 director, in your capacity as a director, not an attorney, that
10:07:58 19 you can recall?

10:08:02 20 A. I'm sorry, repeat that question again.

10:08:07 21 Q. Well, let me ask it again. Can you recall anything
10:08:10 22 that you did as a director on behalf of the Sports Shinko
10:08:14 23 Hawai'i entities, and not as an attorney, at any time that you
10:08:21 24 served as a director?

10:08:22 25 A. I signed written consents. As a director, if there

10:08:29 1 was an approval of, say, a required director action, I may have
10:08:41 2 signed the approval. And at that time, I was acting as a
10:08:46 3 director.

10:08:50 4 Q. Anything else other than what you've said?

10:08:53 5 A. Not that I can recall.

10:08:55 6 MR. WAKUZAWA: Why don't we take a short break.

10:09:02 7 (Recess, 10:09 a.m. to 10:21 a.m.)

10:21:38 8 Q. Mr. Mukai, you talked about the initial contact from
10:21:52 9 KG when Mr. Tanigawa called you and asked to be referred to a
10:21:58 10 representative of Sports Shinkō to direct his inquiry, correct?

10:22:02 11 A. Correct.

10:22:02 12 Q. Did Mr. Tanigawa specifically say that he was making
10:22:06 13 the inquiry on behalf of KG, Kobayashi Group?

10:22:11 14 A. I don't recall.

10:22:17 15 Q. Do you recall if he identified on whose behalf he was
10:22:18 16 calling?

10:22:20 17 A. No.

10:22:21 18 Q. At any time prior to January 2, 2002, did you learn
10:22:31 19 that the Kobayashi Group or a company affiliated with Bert
10:22:37 20 Kobayashi made an offer for the Sports Shinko properties?

10:22:56 21 MR. BORDNER: I'm sorry, could you read it back.

10:23:02 22 (Question read by the reporter.)

10:23:02 23 A. I can't -- I don't recall knowing whether an offer was
10:23:17 24 made. I know that probably there were discussions.

10:23:20 25 Q. How were you aware that discussions were going on

10:27:57 1 Q. I want to go back to something else that you said.
28:03 2 You said that you considered yourself an accommodation director,
10:28:09 3 correct?

10:28:09 4 A. Correct.

10:28:09 5 Q. What does that mean?

10:28:09 6 A. Accommodation director. From my perspective, they
10:28:19 7 needed someone to fulfill the statutory requirements of Hawaii.
10:28:29 8 They didn't, at least from my perspective, they didn't look upon
10:28:37 9 me as one who would participate, was expected to participate on
10:28:45 10 the processes that they normally used at, Sports Shinko entities
10:28:54 11 used in their operations.

10:28:57 12 Q. By "they," are you referring to Satoshi and Toshio
10:29:01 13 Kinoshita?

10:29:01 14 A. I guess Toshio Kinoshita's standpoint.

10:29:11 15 Q. Did Toshio Kinoshita ever tell you that he did not
10:29:16 16 look to you to participate in all of the processes for the
10:29:22 17 Sports Shinko Hawaii entities?

10:29:28 18 MR. BORDNER: You mean as a director?

10:29:28 19 MR. WAKUZAWA: Yes.

10:29:29 20 A. No, he didn't directly say that. But I wasn't invited
10:29:40 21 to any meetings where other Sports Shinko people were involved
10:29:59 22 in discussions about operations or otherwise.

10:30:04 23 Q. Did you ever ask to attend such meetings?

10:30:11 24 A. Frankly, I didn't know whether there were any
10:30:14 25 meetings.

10:35:00 1 Q. That would be Toshio Kinoshita?

35:01 2 A. That's correct.

10:35:02 3 Q. Did Toshio Kinoshita ask you to resign as a director?

10:35:09 4 A. Resign as director? No.

10:35:12 5 Q. You decided to resign on your own?

10:35:14 6 A. That's correct.

10:35:17 7 Q. I believe you said that the reason you resigned is you

10:35:20 8 said that the law changed, and there was no reason for you to

10:35:28 9 serve as a director after that; is that fair?

10:35:30 10 A. That's correct.

10:35:30 11 Q. Any other reason you chose to resign?

10:35:33 12 A. Well, you know, I guess when you suggest there's a

10:35:38 13 difference between accommodation, there's really nothing

10:35:42 14 functional that I was serving as a director. And although they

10:35:48 15 didn't come into play, there was a thought that I wasn't doing

10:35:52 16 anything as a director, necessarily doing anything that required

10:35:59 17 me to be a director.

10:36:03 18 Q. Any other --

10:36:03 19 A. But it was an act of, purely on my part.

10:36:09 20 Q. Any other reason for your resigning as a director

10:36:12 21 other than what you've said?

10:36:15 22 A. I can't think of it now.

10:36:19 23 Q. When did the law change that you're talking about?

10:36:22 24 A. Sometime in 2001.

10:36:31 25 Q. What specific law are you referring to?

11:19:20 1 (Recess, 11:19 a.m. to 11:25 a.m.)

11:26:04 2 Q. Mr. Mukai, do you remember that you and your law firm
11:26:09 3 prepared some management agreements for the Sports Shinko
11:26:16 4 entities?

11:26:16 5 A. I believe so.

11:26:16 6 Q. What do you recall about the purpose for those
11:26:22 7 management -- strike that. What was the purpose for those
11:26:23 8 management agreements?

11:26:24 9 A. I believe that they wanted to separate the ownership
11:26:40 10 and the management and provide for employees. Something to that
11:26:44 11 effect.

11:26:48 12 Q. "They" referring to?

11:26:51 13 A. Sports Shinko.

11:26:55 14 Q. Which Sports Shinko entities are you talking --

11:26:59 15 A. Sports Shinko Hawaii entities.

11:27:03 16 Q. Did someone tell you this purpose?

11:27:07 17 A. I believe Satoshi mentioned it.

11:27:11 18 Q. Did he tell you any other purpose for the management
11:27:14 19 agreements?

11:27:15 20 A. I don't recall.

11:27:16 21 Q. Did he tell you why all of a sudden they wanted to
11:27:22 22 have those management agreements drafted?

11:27:26 23 A. I don't recall.

11:27:26 24 Q. Were you the primary contact with Satoshi Kinoshita in
11:27:34 25 your law firm?

11:38:44 1 A. I think the Hawaii properties was a different company.

:38:50 2 Q. Do you have any understanding as to what Management
11:38:56 3 Services of the Pacific and Far East Management Services were
11:38:59 4 supposed to manage?

11:39:02 5 A. Not sure. But my recollection, I guess, is that these
11:39:08 6 companies were dissolved shortly.

11:39:15 7 Q. Yeah, they may have been dissolved afterwards. But
11:39:20 8 I'm talking about when you formed them, were they designed to
11:39:24 9 manage some properties belonging to Sports Shinko, whether in
11:39:28 10 Hawai'i or somewhere else?

11:39:32 11 A. That could be.

11:39:37 12 Q. Do you have any reason to believe that they were
11:39:41 13 formed to manage properties other than properties owned by
:39:48 14 Sports Shinko?

11:39:53 15 A. Not sure.

11:39:55 16 Q. Then it mentions a resignation letter of Geraldine
11:40:03 17 Calaycay?

11:40:04 18 A. Yeah.

11:40:06 19 Q. Do you know who Geraldine Calaycay is?

11:40:07 20 A. She's a secretary.

11:40:09 21 Q. Secretary of what?

11:40:11 22 A. At my law firm.

11:40:14 23 Q. Do you know how it is that she became an officer and
11:40:18 24 director of the companies?

11:40:19 25 A. Well, in the incorporation process, it's not an

13:37:07 1 the option, Stock Option Agreement; you remember that?

:37:11 2 A. Yes.

13:37:13 3 Q. Did you ever have discussions with Satoshi Kinoshita
13:37:20 4 about wanting an option because of concerns that Toshio
13:37:27 5 Kinoshita had loans from a bank in Japan or the United States,
13:37:34 6 and that if he were the shareholder of the management companies
13:37:39 7 directly, it would come to the attention of the RCC?

13:37:44 8 A. I don't know, Counsel.

13:37:47 9 Q. Do you remember having any conversation with Satoshi
13:37:52 10 Kinoshita about a concern that if Mr. Toshio Kinoshita held
13:38:00 11 shares to a company in Hawai'i, it would come to the attention
13:38:03 12 of the RCC in Japan?

13:38:06 13 A. Read that one more time, the question.

:38:29 14 (Record read by the reporter.)

13:38:29 15 A. I have no recollection.

13:38:31 16 Q. Do you recall having discussions on that subject with
13:38:37 17 anybody?

13:38:37 18 A. On the subject, the last question that you --?

13:38:43 19 Q. (Nods.)

13:38:43 20 A. I don't have a recollection.

13:38:45 21 Q. Did Mr. Satoshi Kinoshita ever tell you that he was
13:38:56 22 served with a document issued by the Osaka District Court
13:39:05 23 related to the RCC?

13:39:06 24 A. I don't have a recollection at this time.

13:39:14 25 Q. Do you remember having any discussions with him about